



OFFICE of the ATTORNEY GENERAL  
GREG ABBOTT

March 5, 2003

Mr. Steve Martin  
Senior Assistant General Counsel  
Texas Department of Banking  
2601 North Lamar Boulevard  
Austin, Texas 78705-4294

OR2003-1425

Dear Mr. Martin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 177456.

The Texas Department of Banking (the "department") received a written request for various categories of information contained in the department's files regarding two named license holders. You state that the department has released some information to the requestor and that other requested information does not exist.<sup>1</sup> You contend that the remaining responsive information, a representative sample of which you submitted to this office, is excepted from required public disclosure pursuant to sections 552.101, 552.110, 552.130, and 552.137 of the Government Code.<sup>2</sup>

We note at the outset that the requestor has posed various questions to the department regarding the license holders. It is well established that the Public Information Act (the "Act") does not require a governmental body to prepare answers to questions or to do legal research. See Open Records Decision Nos. 563 at 8 (1990) (considering request for federal

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<sup>1</sup>The Public Information Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

<sup>2</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. Additionally, although you have also sought a decision from this office pursuant to section 552.305 of the Government Code, we need not address the applicability of this section in this instance.

and state laws and regulations), 555 at 1-2 (1990) (considering request for answers to fact questions). Nor does the Act require the preparation of information in the form requested by a member of the public. Open Records Decision No. 145 (1976); *see also* Open Records Decision No. 347 (1982). The Act applies only to information already transcribed into tangible form. On the other hand, a request for information made pursuant to the Act may not be disregarded simply because a citizen does not specify the exact documents desired. It is incumbent on a governmental body to make a good faith effort to relate documents it holds to information that is being requested under the Act. *See* Open Records Decision No. 87 (1975). Because you represent that the submitted records are responsive to the records request, we will address the extent to which they are subject to required public disclosure.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 153.305(a) of the Finance Code provides that:

Information relating to the financial condition of a license holder, other than published statements, obtained by the department from the license holder and any file or record of the department relating to a license holder are confidential and may not be disclosed by the commissioner or an officer or employee of the department.

Finance Code § 153.305(a). You state that the department maintains all the requested information within its files and records. Further, you do not indicate that the license holders have consented to the release of the requested information, or that the banking commissioner has determined that the requested information should be released. *See* Finance Code § 153.305(b), (c). Based on your representations and our review of the submitted information, we conclude that the submitted information is confidential under section 153.305(a) of the Finance Code. Therefore, the department must withhold the submitted information in its entirety pursuant to section 552.101 of the Government Code.<sup>3</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

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<sup>3</sup>Because we resolve your request under section 552.101, we need not address the applicability of the other exceptions you raised.

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



W. Montgomery Meitler  
Assistant Attorney General  
Open Records Division

WMM/RWP/seg

Ref: ID# 177456

Enc: Submitted documents

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